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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,814	11/15/2001	Scott Fluhrer	50325-0596	3737
29989	7590	12/19/2005	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			CHAI, LONGBIT	
2055 GATEWAY PLACE			ART UNIT	
SUITE 550			PAPER NUMBER	
SAN JOSE, CA 95110			2131	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,814

Applicant(s)

FLUHRER, SCOTT

Examiner

Longbit Chai

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Original application contained claims 1 – 20. Claims 2 and 15 have been canceled in an amendment filed on 11/04/2005. The amendment filed have been entered and made of record. Presently, pending claims are 1, 3 – 14 and 16 – 20.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/04/2005 has been entered.

### ***Response to Arguments***

3. Applicant's arguments with respect to instant claims have been fully considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is indefinite because the “specific protocol” set forth is unclear and there is no specific scope addressed in the specification as to where the “specific” protocol is referred (i.e., what is the scope with respect to).

Examiner notes Applicant's remarks filed on 6/8/2005 asserts: “It is clear that the scope of the specific protocol as used in the application, comprises an individual protocol in a species of protocols other than IP. The adjective specific is used to delineate this distinct protocol as opposed to IP, and indicate that this specific protocol is relating to or characterizing one protocol of a species”. However, Applicant's arguments with respect to the subject matter of the instant claims have been fully considered but are not persuasive because one with ordinary skill in the art would recognize that IP is also considered as one of the well-known and “specific protocols” in the field besides the non-IP protocol.

Accordingly, the claim language “specific protocol” is respectfully requested to be corrected by using more specific claim language such as “non-IP protocol” as asserted by the Applicant in the remarks filed on 6/8/2005.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraph of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 3 – 14 and 16 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheng et al. (U.S. Patent 6823462).

As per claim 1, 14, 17, 18, 19, and 20, Cheng teaches a method for determining secure endpoints of tunnels in a network that uses Internet security protocol (Cheng: see for example, Column 7 Line 21 – 15), the method comprising the computer-implemented steps of:

sending from a first network device a first description of network traffic that is to be protected (Cheng: Figure 4 & Column 7 Line 35 – 52 and Column 7 Line 23 – 25: entities to which network traffic may be directed are referred to as “hosts”. Initiator as taught by Cheng is equivalent to the 1<sup>st</sup> network device associated with the source host and Responder is equivalent to the 2<sup>nd</sup> network device associated with the destination host), wherein the first description comprises a first set of proxies (Cheng: Column 6 Line 53 – 65: As defined in the specification, “A description of the types of packets that will be protected by the secure tunnel is herein referred to as a proxy” (SPEC: page 3, lines 6 – 8). Cheng discloses the security policy describes the characteristics of the

protection for a particular traffic profile between the nodes establishing the tunnel (Cheng: Column 6 Line 53 – 55), which includes what to be protected (Cheng: Column 6 Line 1 – 15: the characteristic of the traffic profile described by the security policy, as taught by Cheng, is qualified as the proxy to meet the claim language).

receiving, at the first network device and from a second network device, a second description of network traffic that is to be protected (Cheng: see for example, Figure 4 & Column 7 Line 35 – 52 and Column 7 Line 23 – 25: Responder is equivalent to the 2<sup>nd</sup> network device associated with the destination host), wherein the second description comprises a second set of proxies (Cheng: see for example, see the same rationale as above);

creating and storing a third description of network traffic that is to be protected based on determining a logical intersection of the first description of network traffic and the second description of network traffic, (Cheng: Column 6 Line 63 – 65, Column 7 Line 26 – 30 and Column 8 Line 53 – 55: Cheng teaches establishing a tunnel having a tunnel definition by negotiating a common security policy associated with the client and the server), wherein the step of creating and storing a third description further comprises the step of determining a largest common subset between the first set of proxies and the second set of proxies (Cheng: Column 6 Line 63 – 65, Column 7 Line 26 – 30 and Column 8 Line 53 – 55: the common set of security policy must include and anticipate the largest common subset of the intersections (Cheng: Column 6 Line 64));  
and

establishing the secure connection between the first network device and the second network device based on the third description of network traffic (Cheng: see for example, Column 7 Line 26 – 30).

As per claim 3 and 16, Cheng teaches the first description comprises a first protocol and the second description comprises a second protocol, and further comprising the steps of determining a third protocol for the third description based on determining a logical intersection of the first protocol and the second protocol (Cheng: Column 6 Line 53 – 58, Column 6 Line 63 – 65, Column 6 Line 5 – 6 and Column 7 Line 26 – 30).

As per claim 4, the claim limitations are met as the same reasons as that set forth above in rejecting claim 3 because the result of a third protocol is based upon determining a logical intersection of the first protocol and the second protocol.

As per claim 5, Cheng teaches the first description comprises a packet summary value that summarizes packets in the network traffic to be protected, and wherein the second description is generated by the second network device based on comparing the packet summary value to one or more access control lists that are managed by the second network device (Cheng: see for example, Figure 14 & Column 7 Line 46 – 57: security policy must fundamentally include access control rules).

As per claim 6 and 8, Cheng teaches wherein the first description of network traffic comprises a packet summary that includes:

IP protocol information that is associated with the network traffic emanating from a source end host, wherein the source end host is associated with the first network device (Cheng: Column 7 Line 21 – 30, Column 6 Line 11 – 15 and Figure 5);

port information that is associated with the source end host (Cheng: Column 6 Line 6: port information is part of the Internet Protocol Address – i.e. IP and Port address for connection between two nodes);

port information that is associated with a destination end host, wherein the destination end host is associated with the second network device (Cheng: Column 6 Line 6: port information is part of the Internet Protocol Address – i.e. IP and Port address for connection between two nodes);

an IP address that is associated with the source end host; an IP address that is associated with the destination end host (Cheng: Column 6 Line 6: port information is part of the Internet Protocol Address – i.e. IP and Port address for connection between two nodes); and

a proxy address of the source end host (Cheng: Column 6 Line 1 – 15 and Column 6 Line 63 – 65);

wherein the second description is generated by the second network device based on comparing the packet summary to one or more access control lists that are managed by the second network device (Cheng: see for example, Column 7 Line 46 – 57).



As per claim 7, Cheng teaches determining, at the second network device, whether the packet summary matches a security policy information that is associated with the second network device; wherein the packet summary is associated with the first description of network traffic (Cheng: Column 7 Line 46 – 48).

As per claim 9, Cheng teaches the Proxy addresses that are associated with the destination end host include a first subnet that includes the destination end host and a second subnet that includes a source end host, wherein the source end host is associated with the first network device (Cheng: Column 6 Line 6, Column 6 Line 11 – 15 and Column 6 Line 63 – 65: the subnet address is part of the IP network address).

As per claim 10, 12 and 13, the claim limitations are met as the same reasons as that set forth above in rejecting claim 1 and 6.

As per claim 11, Cheng teaches receiving at the first network device an IP packet from a source end host that is associated with the first network device,; verifying that the IP packet falls within the third description of network traffic (Cheng: Column 6 Line 58 – 60, Column 7 Line 21 – 30 and Column 7 Line 35 – 52).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 571-272-3788. The examiner can normally be reached on Monday-Friday 8:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LBC

Longbit Chai  
Examiner  
Art Unit 2131



Primary Examiner

AU2131

12/14/05